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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

In re:

VCSP, LLC, et al.,¹

Debtors,

FEDERAL DEPOSIT INSURANCE
CORPORATION as receiver for FRANKLIN
BANK, S.S.B.,

Appellant,

v.

VCSP, LLC, BOULEVARD ENTERPRISES,
LLC and CM CAPITAL SERVICES, LLC,
dba Consolidated Mortgage, LLC

Appellees.

Case No. 09-12390-lbr

Chapter 11

Civil No. 10-CV-00409-JCM-(PAL)

**ORDER AFFIRMING JUDGMENT OF
BANKRUPTCY COURT IN ALL RESPECTS**

¹ The Debtors are the following entities: VCSP, LLC, a Nevada limited liability company (EIN 20-4263609); and Boulevard Enterprises, LLC, a Nevada limited liability company (EIN 20-8105362).

1
2 On March 22, 2010, the Appellant filed a notice of appeal appealing: (a) the final
3 judgment (the "Final Judgment") entered by the United States Bankruptcy Court for the District
4 of Nevada (the "Bankruptcy Court") in Adversary Proceeding Number 09-01315-lbr [Adversary
5 Docket No. 54], (b) the related "Findings of Fact and Conclusions of Law" [Adversary Docket
6 No. 42] and (c) the related "Supplemental Findings of Fact and Conclusions of Law" [Adversary
7 Docket No. 55].

8 A hearing concerning this appeal was held on November 17, 2010 before the Court.
9 Rodney M. Jean of Lionel, Sawyer & Collins and Matthew I. Kramer of Bilzin Sumberg Baena
10 Price & Axelrod, LLP appeared on behalf of Appellant. Georganne W. Bradley and Roberto J.
11 Kampfner appeared on behalf of Appellees VCSP, LLC and Boulevard Enterprises, LLC, and
12 Candace C. Carlyon appeared on behalf of Appellee CM Capital Services, dba Consolidated
13 Mortgage, LLC.

14 The Court has considered the Appellant's Opening Brief, the Appendix to the Appellant's
15 Opening Brief, the Appellees' Answering Brief, the Appendix to the Appellees' Answering
16 Brief,² the Errata to Appellant's Appendix to Opening Brief, the Appellant's Reply Brief and the
17 arguments of counsel at the November 17 hearing referenced above. For the reasons stated on the
18 record, the Court hereby finds that the Final Judgment, Findings of Fact and Conclusions of Law,
19 and Supplemental Findings of Fact and Conclusions of Law should be affirmed in all respects.

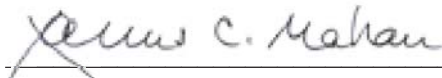
20 Without limiting the generality of the foregoing, the Final Judgment should be affirmed
21 because the Bankruptcy Court did not err in finding that the Note Purchase Payments were not
22 covered by the Subordination Agreement. In short, such payments do not constitute payments
23 "under," "upon" or "in respect of" the obligations under the Subordinated Loan Documents
24 because the Note Purchase Payments were used to purchase the Subordinated Loan not to pay it
25 down or satisfy it any way. Nothing in the Subordination Agreement prevents the Subordinated
26 Lender from selling the Subordinated Loan and retaining the proceeds of such sale.

27
28 ² Capitalized terms used herein, but not defined herein, shall have the means ascribed to such
terms in the Appellees' Answering Brief.

1 Based on the foregoing, and good cause appearing:

2 IT IS HEREBY ORDERED, that the Final Judgment, Findings and Conclusions and
3 Supplemental Findings and Conclusions are AFFIRMED in all respects.

4 Dated: January 18, 2011

5
6 
7 UNITED STATES DISTRICT JUDGE

8 SUBMITTED BY:

9 SHEA & CARLYON, LTD.

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